

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

WILLIE MCNAIR,	)	
	)	
Plaintiff/Counter-Defendant,	)	
	)	
v.	)	Case No. 2:06-cv-695
	)	
RICHARD ALLEN, et al.,	)	
	)	
Defendants/Counter-Plaintiffs.	)	
<hr style="width: 40%; margin-left: 0;"/>		
JAMES CALLAHAN,	)	
	)	
Plaintiff/Counter-Defendant,	)	
	)	
v.	)	Case No. 2:06-cv-919-WKW
	)	
RICHARD ALLEN, et al.,	)	
	)	
Defendants/Counter-Plaintiffs.	)	

**UNOPPOSED MOTION FOR AN ORDER CONTINUING  
PRE-TRIAL AND TRIAL DATES**

PLEASE TAKE NOTICE that Plaintiffs in the above-titled action, by their attorneys, move this Court for an order continuing the pre-trial and trial dates set by the Court in its November 28, 2006 Scheduling Order ("Scheduling Order"). In support of this motion, the Plaintiffs state the following:

1. Counsel for the parties regularly have conferred regarding Defendants' ongoing efforts to comply with Plaintiffs' discovery requests to date and Plaintiffs' attempts to conduct discovery and meet deadlines in the Scheduling Order. The parties diligently are working to move this matter forward.

2. On December 12, 2006, the parties exchanged Rule 26(a)(1) initial disclosures. On December 22, 2006, Plaintiffs served Defendants with their first set of interrogatories and requests for production of documents. Defendants' responses were due on January 11, 2007. Report of Parties' Planning Meeting at ¶¶ 3-4, Nov. 27, 2006.
3. Counsel for Defendants conferred with undersigned counsel on a number of occasions to apprise them of the status of the document collection process and other discovery-related issues. Defendants requested that their time to respond be extended to February 19, 2007, but at Plaintiffs' request ultimately were able to serve Plaintiffs with responses to Plaintiffs' first set of interrogatories on February 8, 2007 and responses to Plaintiffs' first requests for production of documents on February 19, 2007.
4. Defendants, despite what Plaintiffs' counsel believe are diligent efforts, still have not produced documents responsive to Plaintiffs' first request for production of documents. Without such documents, Plaintiffs are unable to move forward in discovery and assess the need for motion practice as to any deficiencies in the document production, as well as pursue follow up requests and ultimately take depositions. Counsel for Defendants have stated, however, that they anticipate responsive documents will be sent to Plaintiffs' counsel by March 2, 2007. Even if Defendants are able to produce documents responsive to the first set of requests by March 2, however, the current fact discovery cutoff of March 31 does not leave adequate time for Plaintiffs to fully and fairly assess and complete this stage of discovery in this important matter.

5. Additionally, Defendants have not yet been able to produce responsive medical records and apprised Plaintiffs that an order from this Court pursuant to HIPAA is desirable to facilitate this process. Plaintiffs have prepared a joint motion seeking an order allowing disclosure of protected medical information under HIPAA and are filing it with this Court today.
6. Under the circumstances, Plaintiffs have determined that to properly conduct and complete discovery and prepare this matter for trial, a 90-day extension of the dates currently set forth in the Scheduling Order is necessary.
7. Counsel for Plaintiffs have conferred with counsel for Defendants as to this request and Defendants have stated that they do not oppose such a 90-day extension.

WHEREAS, Plaintiffs respectfully request a 90-day continuance of the pre-trial and trial calendar and hereby submit a proposed form of Order reflecting revised dates for the Court's consideration.

Respectfully submitted,

Date: March 1, 2007

/s Heather K. McDevitt

VINCENT R. FITZPATRICK, JR.  
HEATHER K. MCDEVITT  
STEPHANIE COHEN  
Bar Numbers (SDNY):  
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- and by -

/s Randall S. Susskind

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**CERTIFICATE OF SERVICE**

I certify that on March 1, 2007, a copy of the foregoing was filed electronically with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: J. Clayton Crenshaw and James W. Davis.

/s Stephanie Cohen  
STEPHANIE COHEN  
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**PROPOSED ORDER CONTINUING PRE-TRIAL AND TRIAL DATES**

Upon consideration of the Plaintiffs' Unopposed Motion for an Order Continuing Pre-Trial and Trial Dates, filed on March 1, 2007, it is hereby

ORDERED that the motion be GRANTED, and that the interim pre-trial deadlines and trial date be set in accordance with the following schedule.

DONE this \_\_ day of \_\_\_\_\_, 2007.

JUDGE:

\_\_\_\_\_  
WILLIAM KEITH WATKINS  
UNITED STATES DISTRICT JUDGE

<b>Item</b>	<b>Scheduling Order Deadline</b>	<b>Revised Deadline</b>
Motions to Amend Pleadings and Add Parties	February 28, 2007	May 29, 2007
Fact Discovery Completed	March 30, 2007	June 28, 2007
Disclosure of Possible Fact and Expert Witnesses and Provision of Expert Reports	April 6, 2007	July 6, 2007
Rule 26(e) Supplementations Due	April 20, 2007	July 20, 2007
Expert Discovery Completed	April 30, 2007	July 30, 2007
Settlement Conference	May 21, 2007	August 20, 2007
Plaintiff's Counsel to File "Notice Concerning Settlement Conference and Mediation"	May 28, 2007	August 27, 2007
Last Day to File Dispositive Motions	May 28, 2007	August 16, 2007
File Rule 26(a)(3) Information on Witnesses; File Deposition Designations; File Exhibit Lists and Furnish Opposing Counsel with Exhibits and Tangible Evidence	May 28, 2007	August 16, 2007
File Responsive Deposition Designations	June 4, 2007	August 23, 2007
File Rebuttal Deposition Designations	June 7, 2007	August 28, 2007
Pre-Trial Conference	May 31, 2007	August 29, 2007
File Written Objections to Deposition Designations; File Written Objections to Exhibits and Tangible Evidence	June 11, 2007	September 10, 2007
Trial Date	June 25, 2007	September 24, 2007 <sup>1</sup>

<sup>1</sup> Plaintiffs calculate a 90-day continuance of the trial date as September 24, 2007. Upon review of this Court's trial term, Plaintiffs note that the next trial term commences on October 15, 2007. If there is no time on the Court's calendar on or around the September 24 date, Plaintiffs request trial be set for October 15, 2007.